

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Patent Application of:) Confirmation No.: 2660
Michael B. SUNDEL) Group Art Unit: 3692
Serial No. 09/996,825) Examiner: N. Subramanian
Filed: November 30, 2001)
For: METHOD AND APPARATUS FOR)
FACILITATING SHIPMENT OF PACKAGES)

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

MAIL STOP APPEAL BRIEF – PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellants respectfully submit this Reply Brief in response to the Examiner's Answer mailed December 26, 2007.

Before proceeding with a detailed analysis of the new points raised in the Answer and Advisory Action mailed July 26, 2007, Appellant would like to point out that independent claims 1 and 33 included the term "the authorized user," which does not have explicit antecedent basis, and a typographical error, "one more items." These informalities in claims 1 and 33 should have been replaced with "an authorized user," and "one or more items" in the Supplemental Amendment filed July 3, 2007. It is believed this is a minor inadvertent oversight that can be addressed by way of an Examiner's Amendment or an amendment by Appellants after decision by the Board.

Supplemental Arguments

In the “Response to Argument” section (section (10) of the Examiner’s Answer, starting at the bottom of page 8), several newly presented points were raised and are now addressed.

On page 9, for the first time the Examiner asserts, “... there is nothing in the disclosure to indicate whether package the data package data is received before or after a package is shipped ... the sender may ship the package and then send package records electronically.” However, as Appellant has argued, the Specification clearly supports the noted feature and moreover it would make no sense to ship a package and then send package records, as asserted by the Examiner, as the package records are needed for the shipment of the package. Further, this highlights the noted deficiency in the applied reference, Williams et al. (U.S. Pub. No. 2002/0032612 A1), which is directed to a package **return** tracking system, and thus is silent with respect to the claimed features regarding package **shipment**.

As argued in Appellant’s Brief, Le et al. (U.S. Pub. No. 2003/0069831 A1) fails to cure the noted deficiencies in Williams et al. Accordingly, Williams et al., alone or in combination with Le et al., cannot render obvious the independent claims, and the claims depending therefrom within the purview of Section 103.

On pages 9-10, with respect to the Section 101 and 112 rejections, Appellant’s disagree with the Examiner’s assertions and rely on the arguments made in Appellant’s Appeal Brief with respect to same.

On the bottom of page 10, the Examiner asserts that KSR forecloses Appellant’s arguments with respect to a specific teaching, suggestion or motivation being required to support a finding of obviousness. Nonetheless, Appellant submits that there is no common sense reason for modifying the package **return** system of Williams et al. with respect to the claimed features regarding package **shipment**.

On page 11, the Examiner for the first time asserts that the Declaration filed November 4, 2005 (Appeal Brief incorrectly used date of November 30, 2001) had been considered, and makes a conclusory and unsupported assertion that “In a multi-billion industry ... a company having annual revenues of about \$800,000 can hardly be construed as evidence of commercial success.” However, Appellant submits that the Examiner has failed to fully consider the Declaration, for example, including at least the evidence relating to (1) the noted revenues and success of Appellant’s invention in view of the fact that Appellant

does negligible advertising, and (2) the fact the Appellant's client, Purolator, is Canada's leading courier and logistics company, and is owned by Canada Post, the Canadian Postal Administration. In addition, current annual revenue is at about \$1.3 million and with projected 2008 revenue at \$1.5 million, and Appellant now is responsible for almost all of Purolator's U.S. shipping and receiving work. For example, if Purolator USA wins a new customer, Appellant's shipping and receiving system will be used, as needed. In addition, Purolator USA is replacing legacy Purolator shipping and receiving systems with Appellant's shipping and receiving systems.

Accordingly, in view of the evidence in the Declaration, Williams et al., alone or in combination with Le et al., do not render obvious the independent claims, and the claims depending therefrom within the purview of Section 103.

On pages 12-13, with respect to the Section 103 rejections, Appellant's disagree with the Examiner's assertions and rely on the arguments made in Appellant's Appeal Brief with respect to same.

For at least these reasons, and the reasons pointed out in Appellant's Brief, the appealed rejections should be reversed, and such reversal is respectfully sought.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 50-2478 and please credit any excess fees to such deposit account.

Respectfully submitted,

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